



February 25, 2005

SENATE BILL No. 416

DIGEST OF SB 416 (Updated February 24, 2005 1:16 pm - DI 104)

Citations Affected: IC 16-18; IC 16-21; IC 16-24.5 ; IC 34-18; IC 34-30.

Synopsis: Diagnostic imaging and outpatient facilities. Establishes financial disclosure requirements for: (1) ambulatory outpatient surgical centers; and (2) diagnostic imaging facilities; and requires a report to be filed with the state department. Requires a diagnostic imaging facility to be licensed by the state department and establishes licensing fees. Establishes the diagnostic imaging facility council.

Effective: July 1, 2005.

Gard, Miller

January 13, 2005, read first time and referred to Committee on Health and Provider Services.

February 17, 2005, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

February 24, 2005, amended, reported favorably — Do Pass.

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SB 416—LS 7698/DI 104+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 416

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-52.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 52.5. (a) "Charity care",
3 for purposes of IC 16-21-6, ~~and IC 16-21-6.5~~, IC 16-21-9,
4 **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7** means the
5 unreimbursed cost to a hospital, **an ambulatory outpatient surgical**
6 **center, or a diagnostic imaging facility** of providing, funding, or
7 otherwise financially supporting health care services:
8 (1) to a person classified by the hospital, **ambulatory outpatient**
9 **surgical center, or diagnostic imaging facility** as financially
10 indigent or medically indigent on an inpatient or outpatient basis;
11 and
12 (2) to financially indigent patients through other nonprofit or
13 public outpatient clinics, hospitals, or health care organizations.
14 (b) As used in this section, "financially indigent" means an
15 uninsured or underinsured person who is accepted for care with no
16 obligation or a discounted obligation to pay for the services rendered
17 based on the ~~hospital's~~ financial criteria and procedure **of the hospital**,

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an ambulatory outpatient surgical center, or a diagnostic imaging facility used to determine if a patient is eligible for charity care. The criteria and procedure must include income levels and means testing indexed to the federal poverty guidelines. A hospital, **an ambulatory outpatient surgical center, or a diagnostic imaging facility** may determine that a person is financially or medically indigent under the hospital's eligibility system **of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility** after health care services are provided.

(c) As used in this section, "medically indigent" means a person whose medical or hospital bills after payment by third party payors exceed a specified percentage of the patient's annual gross income as determined in accordance with the hospital's eligibility system **of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility**, and who is financially unable to pay the remaining bill.

SECTION 2. IC 16-18-2-64.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 64.4. "Community", for purposes of IC 16-21-6, **and IC 16-21-6.5**, IC 16-21-9, **IC 16-21-9.5**, **IC 16-24.5-6**, **and IC 16-24.5-7** means the primary geographic area encompassing at least the entire county in which the hospital, **ambulatory outpatient surgical center, or diagnostic imaging facility** is located and patient categories for which the hospital, **ambulatory outpatient surgical center, or diagnostic imaging facility** provides health care services.

SECTION 3. IC 16-18-2-64.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 64.5. "Community benefits", for purposes of:

- (1) IC 16-21-9, has the meaning set forth in IC 16-21-9-1;
- (2) **IC 16-21-9.5, has the meaning set forth in IC 16-21-9.5-2;**
- and**
- (3) **IC 16-24.5-7, has the meaning set forth in IC 16-24.5-7-1.**

SECTION 4. IC 16-18-2-76.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 76.5. "Contractual allowances"**, for purposes of:

- (1) IC 16-21-6, has the meaning set forth in IC 16-21-6-0.1;
- (2) **IC 16-21-6.5, has the meaning set forth in IC 16-21-6.5-2;**
- and**
- (3) **IC 16-24.5-6, has the meaning set forth in IC 16-24.5-6-1.**

SECTION 5. IC 16-18-2-77.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2005]: Sec. 77.5. (a) "Contributions", for purposes of IC 16-21-6, IC 16-21-6.5, IC 16-21-9, IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7, means the dollar value of cash donations and the fair market value at the time of donation of in kind donations to the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility from individuals, organizations, or other entities.

(b) The term does not include the value of a donation designated or otherwise restricted by the donor for purposes other than charity care.

SECTION 6. IC 16-18-2-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 84. "Council" refers to the following:

(1) For purposes of IC 16-21, the hospital council.

(2) For purposes of IC 16-24.5, the diagnostic imaging facility council.

~~(2)~~ (3) For purposes of IC 16-25 and IC 16-27, the home health care services and hospice services council.

~~(3)~~ (4) For purposes of IC 16-28 and IC 16-29, the Indiana health facilities council.

~~(4)~~ (5) For purposes of IC 16-46-6, the interagency state council on black and minority health.

SECTION 7. IC 16-18-2-94.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 94.5. (a) "Diagnostic imaging facility", for purposes of IC 16-24.5, means a place, an entity, an enterprise, a motor vehicle, or a vehicle that provides diagnostic imaging services to an individual for the purpose of providing health care.

(b) The term does not include the following:

(1) The private professional office of a:

(A) physician licensed under IC 25-22.5;

(B) dentist licensed under IC 25-14;

(C) chiropractor licensed under IC 25-10;

(D) podiatrist licensed under IC 25-29; or

(E) optometrist licensed under IC 25-24;

unless on average more than forty percent (40%) of the billed health care services provided in the office of a physician licensed under IC 25-22.5 in a work week are diagnostic imaging services that are billed to a governmental entity or a commercial payor. The calculation of the forty percent (40%) limitation is based on the billed health care services and the

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1 billed diagnostic imaging services provided by all the
2 physicians in the office.

3 (2) A hospital licensed under IC 16-21-2.

4 (3) An ambulatory outpatient surgical center licensed under
5 IC 16-21-2.

6 (4) A health facility licensed under IC 16-28.

7 (5) A community health center that:

8 (A) is designated by the federal Department of Health and
9 Human Services as a federally qualified health center and
10 is receiving funds under the federal Public Health Services
11 Act (42 U.S.C. 1395x et seq.); or

12 (B) meets the requirements for being designated by the
13 federal Department of Health and Human Services as a
14 federally qualified health center but does not receive funds
15 under the federal Public Health Services Act (42 U.S.C.
16 1395x et seq.).

17 (6) A rural health center certified by the federal Centers for
18 Medicare and Medicaid Services.

19 (7) A motor vehicle or vehicle that is:

20 (A) operated by; and

21 (B) located on the premises of;

22 an entity described in subdivisions (2) through (6).

23 SECTION 8. IC 16-18-2-94.7 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2005]: Sec. 94.7. (a) "Diagnostic imaging
26 service", for purposes of IC 16-24.5, means the following services
27 or procedures:

28 (1) Computed tomography.

29 (2) Positron emission tomography.

30 (3) Magnetic resonance imaging.

31 (4) Nuclear imaging.

32 (5) Ultrasonography, except when used in the course of
33 providing obstetrical care.

34 (6) Angiography.

35 (7) A service or procedure identified as a diagnostic imaging
36 service under a rule adopted by the state department under
37 IC 16-24.5.

38 The term includes a service or procedure described in this
39 subsection that requires the insertion of a needle, catheter tube, or
40 probe through the skin or a body orifice.

41 (b) The term does not include the following:

42 (1) A diagnostic imaging service that is integral to the

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performance of a nonradiological medical procedure and that is performed:

- (A) during a nonradiological medical procedure; or
- (B) immediately following a nonradiological medical procedure when the procedure is necessary to confirm the placement of an item during a nonradiological medical procedure.
- (2) A diagnostic imaging service described in subsection (a) if the diagnostic imaging service was ordered by the following:
 - (A) A dentist licensed under IC 25-14, acting within the scope of practice of IC 25-14.
 - (B) A chiropractor licensed under IC 25-10, acting within the scope of practice of IC 25-10.
 - (C) A podiatrist licensed under IC 25-29, acting within the scope of practice of IC 25-29.
 - (D) An optometrist licensed under IC 25-24, acting within the scope of practice of IC 25-24 and IC 25-26-15.
- (3) X-rays.
- (4) Fluoroscopy.
- (5) Mammography.

SECTION 9. IC 16-18-2-99.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 99.5. "Donations", for purposes of IC 16-21-6, ~~and~~ **IC 16-21-6.5**, IC 16-21-9, **IC 16-21-9.5**, **IC 16-24.5-6**, and **IC 16-24.5-7**, means the unreimbursed costs of providing cash and in kind services and gifts, including facilities, equipment, personnel, and programs, to other nonprofit or public outpatient clinics, hospitals, **ambulatory outpatient surgical centers**, **diagnostic imaging facilities**, or health care organizations.

SECTION 10. IC 16-18-2-104.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 104.5. "Education related costs", for purposes of:

- (1) IC 16-21-6, has the meaning set forth in IC 16-21-6-0.2;
- (2) **IC 16-21-6.5**, has the meaning set forth in **IC 16-21-6.5-3**;
- and
- (3) **IC 16-24.5-6**, has the meaning set forth in **IC 16-24.5-6-2**.

SECTION 11. IC 16-18-2-149 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 149. "Governing board" means the board of trustees, governing board, board of directors, or other body responsible for governing:

- (1) a hospital;
- (2) **an ambulatory outpatient surgical center licensed as an ambulatory outpatient surgical center under IC 16-21; or**

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(3) a diagnostic imaging facility licensed under IC 16-24.5.

SECTION 12. IC 16-18-2-150.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 150.4. "Government sponsored indigent health care", for purposes of:

(1) IC 16-21-9, has the meaning set forth in IC 16-21-9-2;

(2) IC 16-21-9.5, has the meaning set forth in IC 16-21-9.5-3;

and

(3) IC 16-24.5-7, has the meaning set forth in IC 16-24.5-7-2.

SECTION 13. IC 16-18-2-154 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 154. "Gross patient revenue", for purposes of:

(1) IC 16-21-6, has the meaning set forth in IC 16-21-6-1;

(2) IC 16-21-6.5, has the meaning set forth in IC 16-21-6.5-4;

and

(3) IC 16-24.5-6, has the meaning set forth in IC 16-24.5-6-3.

SECTION 14. IC 16-18-2-163 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21, **IC 16-24.5**, and IC 16-41, means any of the following:

(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, **an ambulatory outpatient surgical center, a diagnostic imaging facility**, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an emergency medical technician-basic advanced, an emergency medical technician-intermediate, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant

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health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;

(2) a registered nurse;

(3) a licensed practical nurse;

(4) an advanced practice nurse;

(5) a licensed nurse midwife;

(6) a paramedic;

(7) an emergency medical technician;

(8) an emergency medical technician-basic advanced;

(9) an emergency medical technician-intermediate; or

(10) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

SECTION 15. IC 16-18-2-246 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 246. "Net patient revenue", for purposes of:

(1) IC 16-21-6, has the meaning set forth in IC 16-21-6-2;

(2) IC 16-21-6.5, has the meaning set forth in IC 16-21-6.5-5;

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and

(3) **IC 16-24.5-6, has the meaning set forth in IC 16-24.5-6-4.**

SECTION 16. IC 16-18-2-342.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 342.4. (a) "Subsidized health services", for purposes of IC 16-21-6, ~~and IC 16-21-6.5,~~ IC 16-21-9, **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7,** means services that:

(1) are provided by a hospital, **an ambulatory outpatient surgical center, or a diagnostic imaging facility,** in response to community needs, for which the reimbursement is less than the ~~hospital's~~ cost for providing the services **by the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility;** and

(2) must be subsidized by other hospital, **ambulatory outpatient surgical center, diagnostic imaging facility,** or nonprofit supporting entity revenue sources.

(b) Subsidized health services may include:

(1) emergency and trauma care;

(2) neonatal intensive care;

(3) free standing community clinics; and

(4) collaborative efforts with local government or private agencies in preventive medicine, such as immunization programs.

(c) As used in this section, "nonprofit supporting entity" means a nonprofit entity that is created by the hospital, **ambulatory outpatient surgical center, or diagnostic imaging facility** or the ~~hospital's~~ parent entity **of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility** to further the charitable purposes of the hospital, **the ambulatory outpatient surgical center, or the diagnostic imaging facility** and that is owned or controlled by the hospital, **the ambulatory outpatient surgical center, or the diagnostic imaging facility** or the ~~hospital's~~ parent entity **of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility.**

SECTION 17. IC 16-18-2-361.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 361.5. (a) "Unreimbursed costs", for purposes of IC 16-21-6, ~~and IC 16-21-6.5,~~ IC 16-21-9, **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7,** means the costs a hospital, **an ambulatory outpatient surgical center, or a diagnostic imaging facility** incurs for providing services after subtracting payments received from any source for such services, including the following:

(1) Third party insurance payments.

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- (2) Medicare payments.
- (3) Medicaid payments.
- (4) Medicare education reimbursements.
- (5) State reimbursements for education.
- (6) Payments from drug companies to pursue research.
- (7) Grant funds for research.
- (8) Disproportionate share payments.

(b) For purposes of this definition, **hospital** costs must be calculated by applying the aggregate cost to charge ratios for all hospital services derived from the hospital's Medicare cost report to billed charges. Before January 1, 1997, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital, or the hospital's nonprofit supporting entities, shall not be subtracted from the costs of providing services for purposes of determining unreimbursed costs. Beginning January 1, 1997, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital, or the hospital's nonprofit supporting entities shall not be subtracted from the costs of providing services for purposes of determining the unreimbursed costs of charity care and government sponsored indigent health care.

(c) As used in this section, "government sponsored indigent health care" has the meaning set forth in IC 16-21-9-2.

(d) As used in this section, "nonprofit supporting entity" means a nonprofit entity that is created by the hospital, **the ambulatory outpatient surgical center, or the diagnostic imaging facility** or the ~~hospital's~~ parent entity **of the hospital, the ambulatory outpatient surgical center, or the diagnostic imaging facility**, to further the charitable purposes of the hospital, **the ambulatory outpatient surgical center, or the diagnostic imaging facility** and that is owned or controlled by the hospital, **the ambulatory outpatient surgical center, or the diagnostic imaging facility** or the ~~hospital's~~ parent entity **of the hospital, the ambulatory outpatient surgical center, or the diagnostic imaging facility**.

SECTION 18. IC 16-21-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The governing board of the hospital is the supreme authority in the hospital and is responsible for the following:

- (1) The management, operation, and control of the hospital.
- (2) The appointment, reappointment, and assignment of privileges to members of the medical staff, with the advice and recommendations of the medical staff, consistent with the

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individual training, experience, and other qualifications of the medical staff.

(3) Establishing requirements for appointments to and continued service on the hospital's medical staff, consistent with the appointee's individual training, experience, and other qualifications, including the following requirements:

(A) Proof that a medical staff member ~~has qualified as a health care provider under IC 16-18-2-163(a):~~ **is a qualified provider (as defined in IC 34-18-2-24.5).**

(B) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical care in the hospital setting.

(C) Standards of quality medical care that recognize the efficient and effective utilization of hospital resources, developed by the medical staff.

(4) Upon recommendation of the medical staff, establishing protocols within the requirements of this chapter and 410 IAC 15-1.2-1 for the admission, treatment, and care of patients with extended lengths of stay.

SECTION 19. IC 16-21-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. The governing board of an ambulatory outpatient surgical center licensed as an ambulatory outpatient surgical center under this article is the supreme authority in the ambulatory outpatient surgical center and is responsible for the following:**

(1) The management, operation, and control of the center.

(2) The appointment, reappointment, and assignment of privileges to members of the medical staff, with the advice and recommendations of the medical staff, consistent with the individual training, experience, and other qualifications of the medical staff.

(3) Establishing requirements for appointments to, and continued service on, the center's medical staff, consistent with the appointee's individual training, experience, and other qualifications, including the following requirements:

(A) Proof that a medical staff member is a qualified provider (as defined in IC 34-18-2-24.5).

(B) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical care in the center.

(C) Standards of quality medical care that recognize the

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1 efficient and effective utilization of center resources,
2 developed by the medical staff.

3 SECTION 20. IC 16-21-2-6.5 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. (a) The governing board of**
6 **an ambulatory outpatient surgical center licensed as an**
7 **ambulatory outpatient surgical center under this article shall**
8 **report, in writing, to the medical licensing board of Indiana the**
9 **results and circumstances of:**

- 10 (1) a final;
11 (2) a substantive; and
12 (3) an adverse;

13 disciplinary action taken by the governing board concerning a
14 physician on the medical staff or an applicant for the medical staff
15 if the action results in the voluntary resignation or the involuntary
16 resignation, termination, nonappointment, revocation, or
17 significant reduction of clinical privileges or staff membership.

18 (b) The report under subsection (a) may not be made for a
19 nondisciplinary resignation or for a minor disciplinary action.

20 (c) The governing board and the governing board's:

- 21 (1) employees;
22 (2) agents;
23 (3) consultants; and
24 (4) attorneys;

25 have absolute immunity from civil liability for a communication,
26 discussion, action taken, or report made concerning the
27 disciplinary action or the investigation taken or contemplated if the
28 report or action is made in good faith and without malice.

29 SECTION 21. IC 16-21-6.5 IS ADDED TO THE INDIANA CODE
30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2005]:

32 **Chapter 6.5. Ambulatory Outpatient Surgical Center Financial**
33 **Disclosure Law**

34 **Sec. 1. This chapter applies to an ambulatory outpatient surgical**
35 **center licensed as an ambulatory outpatient surgical center under**
36 **this article.**

37 **Sec. 2. As used in this chapter, "contractual allowances" means**
38 **the difference between revenue at established rates and amounts**
39 **realizable from third party payors under contractual agreements.**

40 **Sec. 3. As used in this chapter, "education related costs" means**
41 **the unreimbursed cost to an ambulatory outpatient surgical center**
42 **of providing, funding, or otherwise financially supporting**

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educational benefits, services, and programs, including:

- (1) education of physicians, nurses, technicians, and other medical professionals and health care providers;
- (2) provision of scholarships and funding to medical schools, colleges, and universities for health professions education;
- (3) education of patients concerning diseases and home care in response to community needs; and
- (4) community health education through informational programs, publications, and outreach activities in response to community needs.

Sec. 4. As used in this chapter, "gross patient revenue" means patient revenue from services to patients of an ambulatory outpatient surgical center, including payments received from or on behalf of individual patients.

Sec. 5. As used in this chapter, "net patient revenue" means gross patient revenue less deductions for contractual adjustments, bad debts, and charity.

Sec. 6. (a) Each ambulatory outpatient surgical center shall file with the state department a report for the preceding fiscal year not later than one hundred twenty (120) days after the end of the center's fiscal year. The state department shall grant an extension of the time to file the report if the ambulatory outpatient surgical center shows good cause for the extension. The report must contain the following:

- (1) A copy of the center's income statement.
- (2) A copy of the center's Medicare cost report, if any, that is required to be filed under the Medicare program and any other appropriate utilization and financial reports required to be filed under federal law.
- (3) Net patient revenue.
- (4) A statement including:
 - (A) Medicare gross revenue;
 - (B) Medicaid gross revenue;
 - (C) other third party payments;
 - (D) contractual allowance;
 - (E) other deductions from revenue;
 - (F) charity care provided;
 - (G) bad debt expense; and
 - (H) an estimation of the unreimbursed cost of subsidized health services.

(b) The information in the report filed under subsection (a) must be provided from reports or audits certified by an independent

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certified public accountant or, if applicable, by the state board of accounts, or certified as accurate by the center's owners.

Sec. 7. If further fiscal information is necessary to verify the accuracy of any information contained in a report filed under section 6 of this chapter, the state department may require an ambulatory outpatient surgical center to produce the records necessary to verify that information.

Sec. 8. In addition to the report filed under section 6 of this chapter, each center shall, not more than one hundred twenty (120) days after the end of each calendar quarter, file with the state department or the state department's designated contractor patient information at the patient level, in a format prescribed by the state health commissioner, including the following:

(1) The patient's:

(A) diagnoses and procedures performed during the patient's admission to the center as an outpatient;

(B) dates of care;

(C) date of birth;

(D) gender;

(E) race;

(F) admission source;

(G) payor, including:

(i) Medicare;

(ii) Medicaid;

(iii) a local government program;

(iv) commercial insurance;

(v) self pay; and

(vi) charity care.

(H) The total charges for the patient's outpatient stay at the center.

(I) The ZIP code of the patient's residence.

Sec. 9. (a) The report filed under section 6 of this chapter:

(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the reports filed under section 6 of this chapter to the public upon request at the state department's actual cost.

(c) The following apply to information that is filed under section 8 of this chapter:

(1) Information filed with the state department's designated contractor:

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(A) is confidential; and

(B) must be transferred by the contractor to the state department in a format determined by the state department.

(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except information that:

(A) personally identifies; or

(B) may be used to personally identify;

a patient or consumer of health services may not be disclosed to a third party other than to an ambulatory outpatient surgical center that has filed reports and information required under sections 6 and 8 of this chapter.

(d) An analysis completed by the state department of information that is filed under section 8 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

Sec. 10. The state department may, through the attorney general, seek to compel compliance with this chapter through injunctive relief.

Sec. 11. (a) The state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The rules adopted under this section must include rules that establish a uniform system for completing the reports and information required under sections 6 and 8 of this chapter.

(c) The rules adopted under this section must provide that, to the greatest extent possible, copies of reports required to be filed with federal, state, and local agencies may be used by centers in completing the reports and information required by this chapter.

Sec. 12. Each year the state health commissioner or the commissioner's designee shall make a compilation of the data obtained from the reports and information required under sections 6 and 8 of this chapter and report in an electronic format under IC 5-14-6 the findings and recommendations to the general assembly not later than December 1 of the year the reports and information are filed. However, the commissioner is not required to incorporate a report or information that is required to be filed

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by a center with the state department before August 1, but shall incorporate the report data in the report to be made the following year.

Sec. 13. (a) The state department shall annually publish a consumer guide to Indiana ambulatory outpatient surgical centers. The state department shall compile the data for the consumer guide from the relevant data in reports and information required to be filed under sections 6 and 8 of this chapter and publish the data in an understandable format that assists the consuming public in making both financial and utilization comparisons between centers.

(b) The state department shall, upon request, provide to the public at the state department's actual cost copies of the consumer guide to Indiana ambulatory outpatient surgical centers published under subsection (a).

Sec. 14. Any person who is a custodian of confidential data at the state department and who knowingly or intentionally:

(1) discloses, distributes, or sells confidential data obtained under this chapter; or

(2) identifies a specific patient or consumer of health services in violation of section 9 of this chapter;

commits a Class B misdemeanor.

SECTION 22. IC 16-21-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The state department may assess a civil penalty against a ~~nonprofit~~ hospital that fails to make a report of the community benefits plan as required under this chapter. The penalty may not exceed one thousand dollars (\$1,000) for each day a report is delinquent after the date on which the report is due. No penalty may be assessed against a hospital under this section until thirty (30) business days have elapsed after written notification to the hospital of its failure to file a report.

SECTION 23. IC 16-21-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The rights and remedies provided for in this chapter are in addition to other statutory or common law rights or remedies available to the state or a ~~nonprofit~~ hospital.

SECTION 24. IC 16-24.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 24.5. DIAGNOSTIC IMAGING FACILITIES

Chapter 1. Diagnostic Imaging Facility Council

Sec. 1. (a) The diagnostic imaging facility council is created.

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(b) The council consists of seven (7) members appointed by the governor as follows:

(1) One (1) individual who is a physician who:

(A) is licensed under IC 25-22.5; and

(B) has a medical practice that concentrates in diagnostic imaging services and diagnostic imaging procedures.

(2) One (1) individual who is a registered nurse who is:

(A) licensed under IC 25-23; and

(B) experienced in providing acute care services.

(3) Two (2) individuals who are engaged in the administration of diagnostic imaging facilities.

(4) One (1) individual who is:

(A) a radiological technologist; and

(B) certified by the American Registry of Radiologic Technologists.

(5) The state health commissioner.

(6) One (1) individual who is not associated with diagnostic imaging facilities, except as a consumer.

If one (1) or more of the individuals described in subdivision (3) is not available to serve on the council, the governor may fill the position with an individual who is engaged in the administration or management of other health care settings where diagnostic imaging services are routinely provided to a patient.

(c) Except for the members of the council appointed under subsection (b)(3), a member of the council may not:

(1) have a pecuniary interest in the operation of; or

(2) provide professional services through employment or under contract to;

a facility licensed under this article.

Sec. 2. (a) All appointments to the council are for four (4) years, beginning July 1 of the year of appointment, except that in case of a vacancy the appointee shall serve for the remainder of the unexpired term. A vacancy must be filled from the group represented by the outgoing member.

(b) The governor shall appoint a chairperson and a chairperson pro tempore from the council members.

Sec. 3. A member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the

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1 Indiana department of administration and approved by the budget
2 agency.

3 Sec. 4. (a) The state health commissioner shall call the first
4 meeting of the council within thirty (30) days after the appointment
5 of the members of the council.

6 (b) The council shall meet at least two (2) times each year on
7 dates fixed by the council.

8 (c) Four (4) members constitute a quorum for the transaction of
9 business.

10 Sec. 5. At the first meeting of the calendar year, the council shall
11 elect a secretary from the council members. The secretary:

12 (1) serves for a term of one (1) year; and

13 (2) shall keep a record of the council meetings.

14 Sec. 6. At the request of the council, the state department may
15 obtain the services of experts or other persons to assist the council
16 in the formulation of policy or in conducting the council's business.

17 Sec. 7. (a) Except as provided in subsection (b), the council shall
18 propose rules to the executive board and the executive board may
19 adopt rules under IC 4-22-2 necessary to protect the health, safety,
20 rights, and welfare of patients, including the following:

21 (1) Rules concerning the operation and management of
22 diagnostic imaging facilities.

23 (2) Rules establishing standards for equipment, facilities, and
24 staffing required for efficient and quality care of patients.

25 (3) Rules identifying other diagnostic imaging services and
26 procedures for purposes of this article.

27 (4) Rules necessary to implement this article.

28 (b) The state department may request the council to propose a
29 new rule or an amendment to an existing rule necessary to protect
30 the health, safety, rights, and welfare of patients. If the council does
31 not propose a rule within ninety (90) days after the state
32 department's request, the state department may propose a rule.

33 (c) The state department shall consider the rules proposed by
34 the council and may adopt, modify, remand, or reject specific rules
35 or parts of rules proposed by the council.

36 Sec. 8. (a) The state department shall perform licensure
37 inspections of a diagnostic imaging facility regularly and in
38 accordance with rules adopted under this article. The state
39 department shall make all health inspections and sanitation
40 inspections, including an inspection in response to an alleged
41 breach of this article or a breach of rules adopted under this
42 article.

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(b) The office of the state fire marshal or the fire marshal's agent shall make all fire safety inspections of a diagnostic imaging facility licensed under this article.

(c) The council may provide for other inspections necessary to implement this article.

(d) An employee of the state department who knowingly or intentionally informs a diagnostic imaging facility of the date of an unannounced inspection shall be:

(1) suspended for five (5) days for a first offense; and

(2) dismissed for a subsequent offense.

(e) A report of an inspection must be in writing and sent to the diagnostic imaging facility.

(f) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

Chapter 2. Licensure of Diagnostic Imaging Facilities

Sec. 1. (a) This article applies to all diagnostic imaging facilities.

(b) This article does not apply to an entity or a location described in IC 16-18-2-94.5(b) unless the entity or a location meets the forty percent (40%) limitation described in IC 16-18-2-94.5(b)(1).

Sec. 2. The state department shall:

(1) license; and

(2) regulate;

a diagnostic imaging facility.

Sec. 3. (a) The council may investigate and determine if an existing or proposed institution, agency, facility, entity, or other health care setting is covered by this chapter.

(b) A decision by the council under subsection (a) is subject to review under IC 4-21.5.

Sec. 4. The state department shall administer this chapter with the advice of the council.

Sec. 5. The governing board of a diagnostic imaging facility is:

(1) the supreme authority in the facility; and

(2) responsible for the following:

(A) The:

(i) management;

(ii) operation; and

(iii) control;

of the facility.

(B) The:

(i) appointment;

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(ii) reappointment; and

(iii) assignment;

of privileges to members of the facility's medical staff, with the advice and recommendations of the medical staff and consistent with the individual training, experience, and other qualifications of the medical staff.

(C) The establishment of requirements for appointments and continued service on the facility's medical staff that are consistent with necessary training, experience, and other qualifications, including the following requirements:

(i) Proof that a medical staff member is a qualified provider (as defined in IC 34-18-2-24.5).

(ii) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical care in the facility setting.

(iii) Standards of quality medical care that recognize the efficient and effective utilization of facility resources developed by the medical staff.

(iv) Established protocols, upon recommendation of the medical staff, that comply with the requirements under this chapter and a rule adopted under this article.

Sec. 6. (a) The governing board shall prepare a written report to the medical licensing board of Indiana of:

(1) a final;

(2) a substantive; and

(3) an adverse;

disciplinary action that the board has taken regarding a physician on the facility's medical staff or an applicant for the medical staff if the action results in voluntary or involuntary termination, nonappointment, revocation, or a significant reduction of clinical privileges or staff membership.

(b) The report described in subsection (a) may not be made for nondisciplinary resignations or for minor disciplinary action.

(c) The governing board and the governing board's:

(1) employees;

(2) agents;

(3) consultants; and

(4) attorneys;

have absolute immunity from civil liability for a communication, discussion, action taken, or report made concerning the disciplinary action or investigation taken or contemplated if the report or action is made in good faith and without malice.

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1 **Sec. 7. A diagnostic imaging facility shall organize a medical**
 2 **staff for the facility. The medical staff of the diagnostic imaging**
 3 **facility is responsible to the governing board for the following:**

- 4 (1) The clinical and scientific work of the facility.
 5 (2) Advice regarding professional matters and policies.
 6 (3) Review of the professional practices in the facility for the
 7 purpose of improving the care of patients in the facility,
 8 including the following:

- 9 (A) The quality and necessity of the care provided.
 10 (B) The preventability of complications occurring in the
 11 facility.

12 **Sec. 8. The members of a medical staff committee who conduct**
 13 **a retrospective medical review have absolute immunity from civil**
 14 **liability for the following:**

- 15 (1) Communications made in committee meetings.
 16 (2) Reports and recommendations made by the committee
 17 arising from deliberations by the committee to the governing
 18 board of the diagnostic imaging facility or another duly
 19 authorized medical staff committee.

20 **Sec. 9. This chapter does not authorize:**

- 21 (1) a person;
 22 (2) a:
 23 (A) state;
 24 (B) county; or
 25 (C) local;
 26 governmental unit;
 27 (3) a division;
 28 (4) a department;
 29 (5) a board; or
 30 (6) an agency;

31 to engage in the practice of medicine. However, this chapter does
 32 not prohibit the performance of health care services by a
 33 diagnostic imaging facility employee in a facility when the
 34 performance is delegated or ordered by a licensed health care
 35 provider if the services performed are within the health care
 36 provider's scope of practice and the competency of the employee,
 37 as determined by criteria adopted by the governing board upon
 38 consultation with the medical staff.

39 **Sec. 10. The following must obtain a license from the state**
 40 **health commissioner under this article before establishing,**
 41 **conducting, operating, or maintaining a diagnostic imaging**
 42 **facility:**

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- (1) A person.
- (2) A state, county, or local governmental unit.
- (3) A division, a department, a board, or an agency of a:
 - (A) state;
 - (B) county; or
 - (C) local; governmental unit.

Sec. 11. (a) An applicant shall submit an application for a license on a form prescribed by the state department showing that the applicant is:

- (1) of reputable and responsible character; and
- (2) able to comply with:
 - (A) the minimum standards for a diagnostic imaging facility; and
 - (B) rules adopted under this chapter.

(b) The application described in subsection (a) must contain the following additional information:

- (1) The name of the applicant.
- (2) The location of the facility.
- (3) The name of the person to be in charge of the facility.
- (4) Other information required by the state department.

Sec. 12. (a) Each diagnostic imaging facility licensed under this article shall pay a license fee or annual renewal fee.

(b) The license fee is due upon initial application for and annual renewal of the license. The amount of the fee is based upon total annual procedures performed as reported to the state department. The fee schedule is as follows:

Total Annual Procedures	Fee
0 - 799	\$500
800 - 3,499	\$1,000
3,500 - 6,999	\$2,000
7,000 and above	\$3,000

(c) If the fees collected under this section are insufficient to cover the cost annually incurred by the department in licensing and surveying diagnostic imaging facilities, the licensing fee applicable to hospitals licensed under IC 16-21 shall be increased by the amount determined by the budget agency to be necessary to cover each year's annual deficiency.

Sec. 13. The state health commissioner may:

- (1) issue a license for an application without further evidence; or
- (2) request additional information from the applicant and

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1 conduct an investigation to determine whether a license
2 should be granted.

3 **Sec. 14. A license to operate a diagnostic imaging facility:**

- 4 (1) expires one (1) year after the date of issuance;
5 (2) is not assignable or transferable;
6 (3) is issued only for the premises named in the application;
7 (4) must be posted in a conspicuous place in the diagnostic
8 imaging facility; and
9 (5) may be renewed each year upon the payment of a renewal
10 fee in an amount set by the council by rule under IC 4-22-2.

11 **Sec. 15. A diagnostic imaging facility that provides notice to a**
12 **patient concerning a third party billing for a service provided to**
13 **the patient shall ensure that the notice:**

- 14 (1) conspicuously states that the notice is not a bill;
15 (2) does not include a tear off part; and
16 (3) is not accompanied by a return mailing envelope.

17 **Chapter 3. Remedies for Violations**

18 **Sec. 1. The state health commissioner may take any of the**
19 **following actions on a ground listed in section 2 of this chapter:**

- 20 (1) Issue a letter of correction.
21 (2) Issue a probationary license.
22 (3) Conduct a resurvey.
23 (4) Deny renewal of a license.
24 (5) Revoke a license.
25 (6) Impose a civil penalty in an amount not to exceed ten
26 thousand dollars (\$10,000).

27 **Sec. 2. The state health commissioner may take action under**
28 **section 1 of this chapter against a diagnostic imaging facility on**
29 **any of the following grounds:**

- 30 (1) Violating any of the provisions of this article or of the
31 rules adopted under this article.
32 (2) Permitting, aiding, or abetting the commission of an illegal
33 act in a diagnostic imaging facility.
34 (3) Knowingly collecting or attempting to collect from:
35 (A) a subscriber (as defined in IC 27-13-1-32); or
36 (B) an enrollee (as defined in IC 27-13-1-12);
37 of a health maintenance organization (as defined in
38 IC 27-13-1-19) any amounts that are owed by the health
39 maintenance organization.
40 (4) Practicing or acting in a manner found by the council to be
41 detrimental to the welfare of the patients of a diagnostic
42 imaging facility.

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1 **Sec. 3. IC 4-21.5 applies to an action under this chapter.**
2 **Chapter 4. Hearings and Appeals**
3 **Sec. 1. A licensee or an applicant for a license that is aggrieved**
4 **by an action under this article may request review under IC 4-21.5.**
5 **Sec. 2. (a) The state department shall appoint an appeals panel**
6 **consisting of three (3) members as follows:**
7 **(1) One (1) member from the executive board.**
8 **(2) One (1) attorney admitted to the practice of law in**
9 **Indiana.**
10 **(3) One (1) individual with qualifications determined by the**
11 **state department.**
12 **(b) An employee of the state department may not be a member**
13 **of the panel.**
14 **(c) The panel shall conduct proceedings for review of an order**
15 **issued by an administrative law judge under this chapter. The**
16 **panel is the ultimate authority under IC 4-21.5.**
17 **Chapter 5. Penalties**
18 **Sec. 1. The state department shall investigate a report of an**
19 **unlicensed diagnostic imaging facility and report the findings to the**
20 **attorney general. The attorney general may seek any of the**
21 **following:**
22 **(1) An injunction in a court of jurisdiction in the county in**
23 **which the unlicensed facility is located or in the circuit or**
24 **superior court of Marion County.**
25 **(2) Relief under IC 4-21.5, including a civil penalty not to**
26 **exceed an amount of twenty-five thousand dollars (\$25,000)**
27 **for each day of unlicensed operation.**
28 **(3) Criminal penalties as provided in section 3 of this chapter.**
29 **Sec. 2. A place, an entity, an enterprise, a vehicle, or a motor**
30 **vehicle may not be called a diagnostic imaging facility if the place,**
31 **entity, enterprise, vehicle, or motor vehicle is not a diagnostic**
32 **imaging facility.**
33 **Sec. 3. Except for a hospital licensed under IC 16-21, a person**
34 **who:**
35 **(1) operates; or**
36 **(2) advertises;**
37 **the operation of a place, an entity, an enterprise, a vehicle, or a**
38 **motor vehicle that is required to be licensed under this article and**
39 **that is not licensed under this article commits a Class A**
40 **misdemeanor.**
41 **Chapter 6. Diagnostic Imaging Facility Financial Disclosure**
42 **Law**

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1 **Sec. 1. As used in this chapter, "contractual allowances" means**
 2 **the difference between revenue at established rates and amounts**
 3 **realizable from third party payors under contractual agreements.**

4 **Sec. 2. As used in this chapter, "education related costs" means**
 5 **the unreimbursed cost to a diagnostic imaging facility of providing,**
 6 **funding, or otherwise financially supporting educational benefits,**
 7 **services, and programs, including:**

8 **(1) education of physicians, nurses, technicians, and other**
 9 **medical professionals and health care providers;**

10 **(2) provision of scholarships and funding to medical schools,**
 11 **colleges, and universities for health professions education;**

12 **(3) education of patients concerning diseases and home care**
 13 **in response to community needs; and**

14 **(4) community health education through informational**
 15 **programs, publications, and outreach activities in response to**
 16 **community needs.**

17 **Sec. 3. As used in this chapter, "gross patient revenue" means**
 18 **patient revenue from services to patients of a diagnostic imaging**
 19 **facility, including payments received from or on behalf of**
 20 **individual patients.**

21 **Sec. 4. As used in this chapter, "net patient revenue" means**
 22 **gross patient revenue less deductions for contractual adjustments,**
 23 **bad debts, and charity.**

24 **Sec. 5. (a) Each diagnostic imaging facility shall file with the**
 25 **state department a report for the preceding fiscal year not later**
 26 **than one hundred twenty (120) days after the end of the facility's**
 27 **fiscal year. The state department shall grant an extension of the**
 28 **time to file the report if the diagnostic imaging facility shows good**
 29 **cause for the extension. The report must contain the following:**

30 **(1) A copy of the diagnostic imaging facility's income**
 31 **statement.**

32 **(2) A copy of the diagnostic imaging facility's Medicare cost**
 33 **report, if any, that is required to be filed under the Medicare**
 34 **program and any other appropriate utilization and financial**
 35 **reports that is required to be filed under federal law.**

36 **(3) Net patient revenue.**

37 **(4) A statement including:**

38 **(A) Medicare gross revenue;**

39 **(B) Medicaid gross revenue;**

40 **(C) other third party payments;**

41 **(D) contractual allowance;**

42 **(E) other deductions from revenue;**

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- (F) charity care provided;
- (G) itemization of bad debt expense; and
- (H) an estimation of the unreimbursed cost of subsidized health services.

(b) The information in the report filed under subsection (a) must be provided from reports or audits certified by an independent certified public accountant or, if applicable, by the state board of accounts, or certified as accurate by the facility's owners.

Sec. 6. If further fiscal information is necessary to verify the accuracy of any information contained in the report filed under section 5 of this chapter, the state department may require the diagnostic imaging facility to produce the records necessary to verify that information.

Sec. 7. In addition to the report filed under section 5 of this chapter, each diagnostic imaging facility shall, not more than one hundred twenty (120) days after the end of each calendar quarter, file with the state department or the state department's designated contractor patient information at the patient level, in a format prescribed by the state health commissioner, including the following:

- (1) The patient's:
 - (A) diagnoses, services, and procedures performed during the patient's care at the facility;
 - (B) date of care at the facility;
 - (C) date of birth;
 - (D) gender;
 - (E) race;
 - (F) referral source;
 - (G) payor, including:
 - (i) Medicare;
 - (ii) Medicaid;
 - (iii) a local government program;
 - (iv) commercial insurance;
 - (v) self pay; and
 - (vi) charity care.
 - (H) The total charges for the patient's care at the facility.
 - (I) The ZIP code of the patient's residence.

Sec. 8. (a) The report filed under section 5 of this chapter:

- (1) may not contain information that personally identifies a patient or a consumer of health services; and
- (2) must be open to public inspection.

(b) The state department shall provide copies of the report filed

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under section 5 of this chapter to the public upon request at the state department's actual cost.

(c) The following apply to information that is filed under section 7 of this chapter:

(1) Information filed with the state department's designated contractor:

(A) is confidential; and

(B) must be transferred by the contractor to the state department in a format determined by the state department.

(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except information that:

(A) personally identifies; or

(B) may be used to personally identify;

a patient or consumer of health services may not be disclosed to a third party other than to a diagnostic imaging facility that has filed current reports and information required under sections 5 and 7 of this chapter.

(d) An analysis completed by the state department of information that is filed under section 7 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

Sec. 9. The state department may, through the attorney general, seek to compel compliance with this chapter through injunctive relief.

Sec. 10. (a) The state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The rules adopted under this section must include rules that establish a uniform system for completing the reports and information required under sections 5 and 7 of this chapter.

(c) The rules adopted under this section must provide that, to the greatest extent possible, copies of reports required to be filed with federal, state, and local agencies may be used by diagnostic imaging facilities in completing the reports and information required by this chapter.

Sec. 11. Each year the state health commissioner or the

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1 commissioner's designee shall make a compilation of the data
 2 obtained from the reports and information required under sections
 3 5 and 7 of this chapter and report in an electronic format under
 4 IC 5-14-6 the findings and recommendations to the general
 5 assembly not later than December 1 of the year the reports are
 6 filed. However, the commissioner is not required to incorporate a
 7 report that is required to be filed by a center with the state
 8 department less than one hundred twenty (120) days before
 9 December 1, but shall incorporate the report data in the report to
 10 be made the following year.

11 Sec. 12. (a) The state department shall annually publish a
 12 consumer guide to Indiana diagnostic imaging facilities. The state
 13 department shall compile the data for the consumer guide from the
 14 relevant data in reports and information required to be filed under
 15 sections 5 and 7 of this chapter and publish the data in an
 16 understandable format that assists the consuming public in making
 17 both financial and utilization comparisons between diagnostic
 18 imaging facilities.

19 (b) The state department shall, upon request, provide to the
 20 public, at the state department's actual cost, copies of the consumer
 21 guide to Indiana diagnostic imaging facilities published under
 22 subsection (a).

23 Sec. 13. Any person who is a custodian of confidential data at
 24 the state department and who knowingly or intentionally:

25 (1) discloses, distributes, or sells confidential data obtained
 26 under this chapter; or

27 (2) identifies a specific patient or consumer of health services
 28 in violation of section 8 of this chapter;

29 commits a Class B misdemeanor.

30 SECTION 25. IC 34-18-2-14 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. "Health care
 32 provider" means any of the following:

33 (1) An individual, a partnership, a limited liability company, a
 34 corporation, a professional corporation, a facility, or an institution
 35 licensed or legally authorized by this state to provide health care
 36 or professional services as a physician, psychiatric hospital,
 37 hospital, **ambulatory outpatient surgical center, diagnostic**
 38 **imaging facility**, health facility, emergency ambulance service
 39 (IC 16-18-2-107), dentist, registered or licensed practical nurse,
 40 physician assistant, midwife, optometrist, podiatrist, chiropractor,
 41 physical therapist, respiratory care practitioner, occupational
 42 therapist, psychologist, paramedic, emergency medical

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1 technician-intermediate, emergency medical technician-basic
 2 advanced, or emergency medical technician, or a person who is an
 3 officer, employee, or agent of the individual, partnership,
 4 corporation, professional corporation, facility, or institution acting
 5 in the course and scope of the person's employment.

6 (2) A college, university, or junior college that provides health
 7 care to a student, faculty member, or employee, and the governing
 8 board or a person who is an officer, employee, or agent of the
 9 college, university, or junior college acting in the course and
 10 scope of the person's employment.

11 (3) A blood bank, community mental health center, community
 12 mental retardation center, community health center, or migrant
 13 health center.

14 (4) A home health agency (as defined in IC 16-27-1-2).

15 (5) A health maintenance organization (as defined in
 16 IC 27-13-1-19).

17 (6) A health care organization whose members, shareholders, or
 18 partners are health care providers under subdivision (1).

19 (7) A corporation, limited liability company, partnership, or
 20 professional corporation not otherwise qualified under this section
 21 that:

22 (A) as one (1) of its functions, provides health care;

23 (B) is organized or registered under state law; and

24 (C) is determined to be eligible for coverage as a health care
 25 provider under this article for its health care function.

26 Coverage for a health care provider qualified under this
 27 subdivision is limited to its health care functions and does not
 28 extend to other causes of action.

29 SECTION 26. IC 34-30-2-65.5 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2005]: **Sec. 65.5. IC 16-21-2-6.5 (Concerning**
 32 **the governing board of an ambulatory outpatient surgical center,**
 33 **and the governing board's employees, agents, consultants, and**
 34 **attorneys for participation in disciplinary actions and**
 35 **investigations).**

36 SECTION 27. IC 34-30-2-66.5 IS ADDED TO THE INDIANA
 37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2005]: **Sec. 66.5. IC 16-24.5-2-6 (Concerning**
 39 **the governing board of a diagnostic imaging facility and the**
 40 **governing board's employees, agents, consultants, and attorneys**
 41 **for participation in disciplinary actions and investigations).**

42 SECTION 28. IC 34-30-2-66.7 IS ADDED TO THE INDIANA

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1 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2005]: **Sec. 66.7. IC 16-24.5-2-8 (Concerning**
 3 **members of a medical staff committee for conduct related to a**
 4 **retrospective medical review).**

5 SECTION 29. IC 34-30-15-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) All proceedings
 7 of a peer review committee are confidential.

8 (b) All communications to a peer review committee shall be
 9 privileged communications.

10 (c) Neither the personnel of a peer review committee nor any
 11 participant in a committee proceeding shall reveal any content of:

12 (1) communications to;

13 (2) the records of; or

14 (3) the determination of;

15 a peer review committee outside of the peer review committee.

16 (d) However, the governing board of:

17 (1) a hospital;

18 **(2) an ambulatory outpatient surgical center;**

19 **(3) a diagnostic imaging facility;**

20 ~~(2) (4)~~ a professional health care organization;

21 ~~(3) (5)~~ a preferred provider organization (including a preferred
 22 provider arrangement or reimbursement agreement under
 23 IC 27-8-11); or

24 ~~(4) (6)~~ a health maintenance organization (as defined in
 25 IC 27-13-1-19) or a limited service health maintenance
 26 organization(as defined in IC 27-13-34-4);

27 may disclose the final action taken with regard to a professional health
 28 care provider without violating the provisions of this section.

29 SECTION 30. THE FOLLOWING ARE REPEALED [EFFECTIVE
 30 JULY 1, 2005]: IC 16-18-2-69.4; IC 16-18-2-69.5; IC 16-18-2-251;
 31 IC 16-21-9-3.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 416, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-52.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 52.5. (a) "Charity care", for purposes of IC 16-21-6, **and IC 16-21-6.5**, IC 16-21-9, **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7** means the unreimbursed cost to a hospital, **an ambulatory outpatient surgical center, or a diagnostic imaging facility** of providing, funding, or otherwise financially supporting health care services:

(1) to a person classified by the hospital, **ambulatory outpatient surgical center, or diagnostic imaging facility** as financially indigent or medically indigent on an inpatient or outpatient basis; and

(2) to financially indigent patients through other nonprofit or public outpatient clinics, hospitals, or health care organizations.

(b) As used in this section, "financially indigent" means an uninsured or underinsured person who is accepted for care with no obligation or a discounted obligation to pay for the services rendered based on the ~~hospital's~~ financial criteria and procedure **of the hospital, an ambulatory outpatient surgical center, or a diagnostic imaging facility** used to determine if a patient is eligible for charity care. The criteria and procedure must include income levels and means testing indexed to the federal poverty guidelines. A hospital, **an ambulatory outpatient surgical center, or a diagnostic imaging facility** may determine that a person is financially or medically indigent under the ~~hospital's~~ eligibility system **of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility** after health care services are provided.

(c) As used in this section, "medically indigent" means a person whose medical or hospital bills after payment by third party payors exceed a specified percentage of the patient's annual gross income as determined in accordance with the ~~hospital's~~ eligibility system **of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility**, and who is financially unable to pay the remaining bill.

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SECTION 2. IC 16-18-2-64.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 64.4. "Community", for purposes of IC 16-21-6, **and IC 16-21-6.5**, IC 16-21-9, **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7** means the primary geographic area encompassing at least the entire county in which the hospital, **ambulatory outpatient surgical center, or diagnostic imaging facility** is located and patient categories for which the hospital, **ambulatory outpatient surgical center, or diagnostic imaging facility** provides health care services."

Page 1, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 5. IC 16-18-2-77.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 77.5. (a) **"Contributions"**, for purposes of IC 16-21-6, IC 16-21-6.5, IC 16-21-9, IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7, means the dollar value of cash donations and the fair market value at the time of donation of in kind donations to the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility from individuals, organizations, or other entities.

(b) The term does not include the value of a donation designated or otherwise restricted by the donor for purposes other than charity care."

Page 2, line 14, delete "IC 16-21-2 and".

Page 2, line 15, delete "facility, physical location," and insert **"place, an entity, an enterprise, a"**.

Page 2, line 15, delete "vehicle:" and insert **"a vehicle"**.

Page 2, delete line 16.

Page 2, line 17, delete "(2) where diagnostic imaging services are provided" and insert **"that provides diagnostic imaging services"**.

Page 2, run in lines 15 through 17.

Page 2, line 25, delete "thirty-five" and insert **"forty"**.

Page 2, line 25, delete "(35%)" and insert **"(40%)"**.

Page 2, line 29, after "payor." insert **"The calculation of the forty percent (40%) limitation is based on the billed health care services and the billed diagnostic imaging services provided by all the physicians in the office."**

Page 3, line 11, delete "IC 16-21-2 and".

Page 3, delete line 13.

Page 3, line 14, delete "(2)" and insert **"(1)"**.

Page 3, line 15, delete "(3)" and insert **"(2)"**.

Page 3, line 16, delete "(4)" and insert **"(3)"**.

Page 3, line 17, delete "(5)" and insert **"(4)"**.

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Page 3, line 18, delete "(6) Ultrasonography." and insert **"(5) Ultrasonography, except when used in the course of providing obstetrical care."**

Page 3, line 19, delete "(7)" and insert **"(6)"**.

Page 3, line 20, delete "(8)" and insert **"(7)"**.

Page 4, between lines 2 and 3, begin a new line block indented and insert:

"(5) Mammography.

SECTION 9. IC 16-18-2-99.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 99.5. "Donations", for purposes of IC 16-21-6, ~~and IC 16-21-6.5~~, IC 16-21-9, **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7**, means the unreimbursed costs of providing cash and in kind services and gifts, including facilities, equipment, personnel, and programs, to other nonprofit or public outpatient clinics, hospitals, **ambulatory outpatient surgical centers, diagnostic imaging facilities**, or health care organizations."

Page 4, delete lines 10 through 14.

Page 6, between lines 23 and 24, begin a new paragraph and insert the following:

"SECTION 17. IC 16-18-2-342.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 342.4. (a) "Subsidized health services", for purposes of IC 16-21-6, ~~and IC 16-21-6.5~~, IC 16-21-9, **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7**, means services that:

(1) are provided by a hospital, **an ambulatory outpatient surgical center, or a diagnostic imaging facility**, in response to community needs, for which the reimbursement is less than the ~~hospital's~~ cost for providing the services **by the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility**; and

(2) must be subsidized by other hospital, **ambulatory outpatient surgical center, diagnostic imaging facility**, or nonprofit supporting entity revenue sources.

(b) Subsidized health services may include:

- (1) emergency and trauma care;
- (2) neonatal intensive care;
- (3) free standing community clinics; and
- (4) collaborative efforts with local government or private agencies in preventive medicine, such as immunization programs.

(c) As used in this section, "nonprofit supporting entity" means a nonprofit entity that is created by the hospital, **ambulatory outpatient surgical center, or diagnostic imaging facility** or the ~~hospital's~~ parent

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entity of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility to further the charitable purposes of the hospital, the ambulatory outpatient surgical center, or the diagnostic imaging facility and that is owned or controlled by the hospital, the ambulatory outpatient surgical center, or the diagnostic imaging facility or the hospital's parent entity of the hospital, ambulatory outpatient surgical center, or diagnostic imaging facility.

SECTION 18. IC 16-18-2-361.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 361.5. (a) "Unreimbursed costs", for purposes of IC 16-21-6, ~~and IC 16-21-6.5,~~ IC 16-21-9, **IC 16-21-9.5, IC 16-24.5-6, and IC 16-24.5-7,** means the costs a hospital, **an ambulatory outpatient surgical center, or a diagnostic imaging facility** incurs for providing services after subtracting payments received from any source for such services, including the following:

- (1) Third party insurance payments.
- (2) Medicare payments.
- (3) Medicaid payments.
- (4) Medicare education reimbursements.
- (5) State reimbursements for education.
- (6) Payments from drug companies to pursue research.
- (7) Grant funds for research.
- (8) Disproportionate share payments.

(b) For purposes of this definition, **hospital** costs must be calculated by applying the aggregate cost to charge ratios for all hospital services derived from the hospital's Medicare cost report to billed charges. Before January 1, 1997, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital, or the hospital's nonprofit supporting entities, shall not be subtracted from the costs of providing services for purposes of determining unreimbursed costs. Beginning January 1, 1997, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital, or the hospital's nonprofit supporting entities shall not be subtracted from the costs of providing services for purposes of determining the unreimbursed costs of charity care and government sponsored indigent health care.

(c) As used in this section, "government sponsored indigent health care" has the meaning set forth in IC 16-21-9-2.

(d) As used in this section, "nonprofit supporting entity" means a nonprofit entity that is created by the hospital, **the ambulatory**

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outpatient surgical center, or the diagnostic imaging facility or the ~~hospital's parent entity of the hospital, the ambulatory outpatient surgical center, or the diagnostic imaging facility,~~ to further the charitable purposes of the hospital, **the ambulatory outpatient surgical center, or the diagnostic imaging facility** and that is owned or controlled by the hospital, **the ambulatory outpatient surgical center, or the diagnostic imaging facility** or the ~~hospital's parent entity of the hospital, the ambulatory outpatient surgical center, or~~ **the diagnostic imaging facility."**

Page 7, line 32, delete "hospital" and insert "**center**".

Page 8, delete lines 18 through 42.

Delete page 9.

Page 18, line 39, delete "Three (3)" and insert "**Two (2)**".

Page 18, line 41, after "(4)" insert "**One (1) individual who is:**

(A) a radiological technologist; and

(B) certified by the American Registry of Radiologic Technologists.

(5)".

Page 18, line 42, delete "(5)" and insert "**(6)**".

Page 20, line 42, after "Sec. 1." insert "**(a)**".

Page 20, after line 42, begin a new paragraph and insert:

"(b) This article does not apply to an entity or a location described in IC 16-18-2-94.5(b) unless the entity or a location meets the forty percent (40%) limitation described in IC 16-18-2-94.5(b)(1)."

Page 25, line 37, delete "An agency, a building, an institution, a place" and insert "**A place, an entity, an enterprise,**".

Page 25, line 39, delete "agency, building, institution,".

Page 25, line 39, after "place," insert "**entity, enterprise,**".

Page 26, line 3, delete "an agency, a building, an institution,".

Page 26, line 3, after "place," insert "**an entity, an enterprise,**".

Page 34, line 34, after "2005]" insert "IC 16-18-2-69.4; IC 16-18-2-69.5;".

Page 36, line 30, delete "committee." and insert "**commission.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 416 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

SB 416—LS 7698/DI 104+



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SENATE MOTION

Madam President: I move that Senator Miller be added as second author of Senate Bill 416.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 416, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 34, delete "or".

Page 3, line 35, after "IC 25-29;" insert "**or**".

Page 3, between lines 35 and 36, begin a new line double block indented and insert:

"(E) optometrist licensed under IC 25-24;".

Page 5, between lines 14 and 15, begin a new line double block indented and insert:

"(D) An optometrist licensed under IC 25-24, acting within the scope of practice of IC 25-24 and IC 25-26-15."

Page 12, delete lines 22 through 23.

Page 12, line 24, delete "(2)" and insert "**(1)**".

Page 12, delete lines 25 through 27.

Page 12, line 28, delete "(6)" and insert "**(2)**".

Page 12, line 32, delete "(7)" and insert "**(3)**".

Page 12, line 33, delete "(8)" and insert "**(4)**".

Page 12, delete lines 36 through 39.

Page 12, line 40, delete "(G)" and insert "**(C)**".

Page 12, line 41, delete "(H)" and insert "**(D)**".

Page 12, line 42, delete "(I)" and insert "**(E)**".

Page 13, line 1, delete "(J)" and insert "**(F)**".

Page 13, line 2, delete "(K) itemization of" and insert "**(G)**".

Page 13, line 3, delete "(L)" and insert "**(H)**".

Page 13, delete lines 5 through 21.

Page 13, line 25, delete "accounts." and insert "**accounts, or certified as accurate by the center's owners.**".

Page 16, delete lines 4 through 42.

Page 17, delete lines 1 through 9.

Page 17, delete lines 24 through 42.

Delete pages 18 through 19.

Page 20, delete lines 1 through 6.

Page 25, delete lines 34 through 37, begin a new paragraph and insert:

"Sec. 12. (a) Each diagnostic imaging facility licensed under this article shall pay a license fee or annual renewal fee.

(b) The license fee is due upon initial application for and annual renewal of the license. The amount of the fee is based upon total

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annual procedures performed as reported to the state department.

The fee schedule is as follows:

Total Annual Procedures	Fee
0 - 799	\$500
800 - 3,499	\$1,000
3,500 - 6,999	\$2,000
7,000 and above	\$3,000

(c) If the fees collected under this section are insufficient to cover the cost annually incurred by the department in licensing and surveying diagnostic imaging facilities, the licensing fee applicable to hospitals licensed under IC 16-21 shall be increased by the amount determined by the budget agency to be necessary to cover each year's annual deficiency."

Page 28, delete lines 29 through 31.

Page 28, line 32, delete "(2)" and insert "(1)".

Page 28, delete lines 34 through 36.

Page 28, line 37, delete "(6)" and insert "(2)".

Page 28, line 41, delete "(7)" and insert "(3)".

Page 28, line 42, delete "(8)" and insert "(4)".

Page 29, delete lines 3 through 6.

Page 29, line 7, delete "(G)" and insert "(C)".

Page 29, line 8, delete "(H)" and insert "(D)".

Page 29, line 9, delete "(I)" and insert "(E)".

Page 29, line 10, delete "(J)" and insert "(F)".

Page 29, line 11, delete "(K)" and insert "(G)".

Page 29, line 12, delete "(L)" and insert "(H)".

Page 29, delete lines 14 through 30.

Page 29, line 34, delete "accounts." and insert "accounts, or certified as accurate by the facility's owners."

Page 32, delete lines 14 through 42.

Delete page 33.

Page 34, delete lines 1 through 24.

Page 36, delete lines 27 through 42.

Delete pages 37 through 38.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 416 as printed February 18, 2005.)

MEEKS, Chairperson

Committee Vote: Yeas 8, Nays 2.

SB 416—LS 7698/DI 104+



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